

Notice of Allowability

Application No.

10/066,253

Examiner

Brian J. Sines

Applicant(s)

BANNISTER ET AL.

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1743

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the response and amendment filed 1/8/2004.
2. ☒ The allowed claim(s) is/are 15-22 and 30.
3. ☒ The drawings filed on 31 January 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____

DETAILED ACTION

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with J. Peter Fasse on 3/22/2004.

The application has been amended as follows:

15. A system for detecting the presence of an energetic material in a sample in which the presence of the energetic material is unknown, the system comprising:

a thermal measuring apparatus which during operation heats the sample and measures heat flow between the sample and its surrounding environment; [and]

a computer coupled to the thermal measuring apparatus and operative to control the thermal measuring apparatus to:

heat the sample;

measure the heat flow between the sample and its surrounding environment; and

produce a thermogram;

said computer further comprising an analyzer [coupled to the thermal measuring apparatus and] comprising [a processor and] software, wherein the software causes the analyzer [processor] to analyze the heat flow measured by the thermal measuring apparatus and to determine the presence or absence of a strong exothermal peak in the thermogram, wherein the

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presence of a strong exothermal peak indicates the presence of the energetic material in the sample and the absence of a strong exothermal peak indicates the absence of any energetic material in the sample.

Allowable Subject Matter

Claims 15 – 22 and 30 are allowed.

The following is an examiner's statement of reasons for allowance:

Claims 1 – 14 in this case, which were cancelled by preliminary amendment filed 1/31/2002, directed to the method for detection were considered allowable over the cited prior art as indicated in the corresponding allowed claims 1 – 15 of parent Appl. No. 09/491,026 (see U.S. Pat. No. 6,406,918 B1).

The cited prior art neither teach or fairly suggest a system for detecting the presence of an energetic material in a sample in which the presence of the energetic material is unknown, the system comprising:

a thermal measuring apparatus which during operation heats the sample and measures heat flow between the sample and its surrounding environment;

a computer coupled to the thermal measuring apparatus and operative to control the thermal measuring apparatus to:

heat the sample;

measure the heat flow between the sample and its surrounding environment; and

produce a thermogram;

said computer further comprising an analyzer comprising software, wherein the software causes the analyzer to analyze the heat flow measured by the thermal measuring apparatus and to

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determine the presence or absence of a strong exothermal peak in the thermogram, wherein the presence of a strong exothermal peak indicates the presence of the energetic material in the sample and the absence of a strong exothermal peak indicates the absence of any energetic material in the sample.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J. Sines, Ph.D. whose telephone number is (571) 272-1263. The examiner can normally be reached on Monday - Friday (11:30 AM - 8 PM EST).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jill A. Warden can be reached on (571) 272-1267. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Jill Warden
Supervisory Patent Examiner
Technology Center 1700